UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,753	11/19/2003	Daniel P. Baumberger	INT.P008	6178

45512 7590 03/12/2007 LAWRENCE CHO C/O PORTFOLIOIP P. O. BOX 52050 MINNEAPOLIS, MN 55402	**EXAMINER** PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 December 2006</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9,18-22 and 26-30* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,18-22 and 26-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9, 18-22, and 26-30 are rejected under 35 U.S.C. 102(b) as

being anticipated by Devine et al., (US 6,397,242).

As per claims 1-9 and 18-22, and 26-30, Device teaches a method for

performing virtualization, comprising;

executing a plurality of input output instructions from an instruction stream

during a single virtualization event and identifying an I/O instruction; and

scanning the

instruction stream to determine whether additional I/O instructions are present

within an extent of instructions in the instruction stream. (Abstract, col. 5, Lines

12 – col. 6, Line 52, col. 10, Lines 51-59, col. 24, Lines 2-13. Figures 1-2, and 7-

8)

Devine teaches a virtualization system that employs a virtual machine

monitor (VMM) on segmented-architecture computers. The VMM monitors a

virtual machine (VM) emulating the computer architecture, and determines

whether code executing on the VM may be executed in a direct execution

environment (e.g., where the host processor may be set up with reduced

privileges) or must be executed in a binary translation environment (e.g., when

the virtual and underlying architectures mismatch). Device specifically teaches of

monitoring a single virtualization event. (col. 1, lines 53-64, col. 11,lines 34-48,

24, lines 18-26, col. 25, lines 7-21)

Conclusion

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Tammara Peyton whose telephone number is

(571) 272-4157. The examiner can normally be reached between 6:30 - 4:00

from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every

second Friday. If attempts to reach the examiner by telephone are unsuccessful,

the examiner's supervisor, Kim Huynh can be reached on (571) 272-4147. The

fax phone number for the organization where this application or proceeding is

assigned is (571) 273-8300. Any inquiry of a general nature of relating to the

status of this application should be directed to the Group receptionist whose

telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or

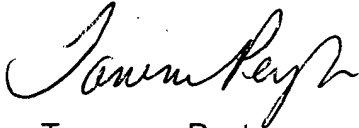draft communications (please label "PROPOSED" or "DRAFT") sent to:

(571) 273-8300

Hand-delivered responses should be brought to:

USTPO, Randolph Building, Customer Service Window

401 Dulany Street

Alexandria, VA 22314.

TAMMARA PEYTON
PRIMARY EXAMINER

Tammara Peyton

March 5, 2007